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In giving judgement, a Nuer court will almost always specify the size and sex of the animal to be paid by the defendant. This is especially the case when the defendant is unable to pay immediately, for otherwise he will be expected to name and describe the exact animal he proposes to pay.

In most cases the nature of the claim will be clear to the reader from the context. The administrator who is concerned with the practical application of Nuer law will be wise to master these terms at the outset. The terms are also set out for easy reference in the Glossary at the end of this book.

2. AN INTRODUCTION TO NUER SOCIETY

Origin and History

The Nuer call themselves *Naadh*,[1] which simply means 'people', *'hun ɲai te Naadh'*, 'we are the people of the People', an expression which is sufficiently descriptive for their own purposes and reveals their arrogant belief in their own superiority over other human beings. By other tribes they are often spoken of as Nuer, and to be explicit to the ignorant stranger they will sometimes say *'hun Nuer'*, 'we are Nuer'. Their origin remains obscure. Nuer themselves merely say that their ancestors descended from the sky down a convenient rope or by means of an exceptionally large *akut* (*Ficus*) tree which still grows in Jagei country in the centre of Western Nuer District, an area from which they all came. Other theories of their origin seem to me no less conjectural and in the absence of more convincing evidence, we may as well leave it at that.[2] Culturally they are very near to the Dinka, and the two languages have close affinities. They are clearly of the same stock, but it remains a mystery why the Nuer should have emerged as a separate people with comparative suddenness about the beginning of the nineteenth century, driven the Dinka out of so much of their country, seized so many of their women and cattle, and absorbed whole sections of Dinka into their own society. Their extraordinary vitality, expressed in a peculiar vivacity of speech, in physical courage and endurance, their arrogance and democratic outlook coupled with a most engaging sense of humour, make them outstanding among the peoples of the Sudan.

They are divided into a number of 'tribes', the tribe being the largest group which in the past had any real and permanent sense of corporate unity. Each tribe is further divided into segments and sub-segments, each occupying a common territory with a common name. Administratively they are now divided into three Districts: Western

[1] Sometimes spelt *Nath*.

[2] See Evans-Pritchard, *The Nuer*, p. 3. Fr. J. P. Crazzolara's two recent books on *The Lotuho* (Missionari Africani, Verona, 1950–51) do not provide much further information on Nuer origins.

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631 Nuer District, which includes the Bul, Leik,[1] Jikany Cieng,[2] Jagei, Dok (and Aak), and Nuong (and Dur) tribes, with its headquarters at Bentiu on the Bahr el Ghazal; Central Nuer District, which includes the Lak, Thiang, Gaawar[3] and Lou[4] tribes, with its headquarters at Fangak on the Bahr el Zeraf; Eastern Nuer District, which is occupied by the whole of the Jikany Dhor people, divided into the Gaajok, Gaajak and Gaagwang tribes, with headquarters at Nasir on the river Sobat. Generally speaking, the administrative system follows the tribal pattern with centres in each tribal area, and in some cases in each primary segment of a tribe, though nowadays there is a tendency for segments to be combined in the development of Local Government based on territorial rather than traditional considerations.

175 At the beginning of the nineteenth century all Nuer were living west of the Nile. By the end of that century they had occupied an area stretching from the White Nile in the north, north-east of the river Sobat and north-west of the Bahr el Ghazal, eastwards to the Ethiopian frontier, and southwards along the Pibor river to the borders of Murle country and across to the headwaters of the Bahr el Zeraf.

An historical account of their warlike invasions of Dinka country and their gradual migration and expansion eastwards is not part of this book, but there are certain observations concerning their history which are relevant to a study of their customary law. There appear to have been five main periods in Nuer history: (i) The period before their move eastwards, about which little is known, but when they must have been fewer in numbers and more closely united as a people. What was then a tribe would, in numbers, be approximate to a tribal segment today, and tribal boundaries were less clearly defined. (ii) The period of initial invasion when they moved eastwards in a series of waves which began with cattle raids and ended in permanent occupation. This period is recounted in traditions relatively fresh in the minds of the Nuer and not yet merged into tribal mythology. (iii) The period of numerical expansion by natural processes and by the absorption of huge numbers of Dinka and therefore much of Dinka culture. It should be noted that this period was characterized by the facility with which Dinka elements were incorporated into Nuer society without friction or a trace of symbiosis. It is probable that at this time the Nuer lost much of their former cohesion, particularly as they were almost simultaneously subjected to the disrupting effects of slave raids from the north. (iv) At any rate the third period seems to have been followed almost immediately by a period of disharmony, suspicion,

[1] Sometimes spelt Leek.

[2] Variously spelt Jikany, Jekaing, Jokain, etc. The Jikany Cieng—lit. 'homeland Jikany'—are the parent tribe from which the Jikany Dhor—lit. 'outside Jikany'—originally sprang.

[3] More commonly, though incorrectly, spelt Gawar.

[4] Sometimes spelt Law.

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internal strife and political fission. (v) As the pressure from the north increased, a return to a semblance of cohesion was necessary and there emerged the great Nuer leaders or 'Prophets' who arose as symbols of tribal resistance to foreign aggression represented first in the Dervish forces who attempted to establish slaving centres in Nuerland and finally by the forces of the present Government. (vi) In the years which followed, administration was limited to an attempt to hold the Nuer from their attacks on the Dinka, to prevent fighting among themselves, and to the collection of taxes. Naturally enough the Nuer resented this, particularly the collection of tribute in cattle and the prevention of cattle raids, and despite the outstanding efforts of individual administrators such as Struvé, Stigand, and Jackson, the attempt to establish ordered administration was only partially successful. Resistance, raids on neighbouring tribes, and lack of internal security reached a climax in 1928. Captain Fergusson, then District Commissioner of Western Nuer, was assassinated; the Lou Nuer led by Gwek Ngundeng[1] had been showing open defiance for some time previously, and in that year too the Gaawar Nuer led by Dwal Diu[2] descended on the Dinka of Bor District and attacked the Government Post at Duk Faiwil. Reprisals followed and took the form of a series of strenuous military operations which were known as the 'Nuer Settlement'. Whatever the moral verdict, the Nuer learnt their lesson and came to heel. A period of pacification followed, and through the just and sympathetic methods of such men as Captain H. A. Romilly, Captain A. H. Alban, and Mr. H. G. Wedderburn-Maxwell, the feelings of fear and suspicion, which were natural enough in the circumstances, were quickly eradicated. It was these men who laid the foundations of the sound administrative system which was to follow. From an excessively arrogant, unco-operative and suspicious people, the Nuer rapidly became what they are now: still proud, still intensely democratic with a fine spirit of independence, but essentially friendly.

Topography and Ecology

Nuer country, set in the savannah and marshland of the Southern Sudan between latitudes 10° N. and 7° N. and with a seasonal rainfall between 800 and 1,000 mm.,[3] has its special topographical and climatic features which account for the present mode of life of the people. The total area of Nuerland in the Sudan is approximately

[1] See P. Coriat, 'Gwek the Witch-doctor and the Pyramid of Denghur', *S.N.R.*, 1939.

[2] The son of Deng Likon, sometimes called the Prophet Diu, who rallied the Gaawar Nuer against the slavers at the end of the nineteenth century.

[3] Averages are: Malakal, 818 mm.; Fangak, 1136 mm.; Bentiu, 797 mm.; Leer, 900 mm.; Abwong, 744 mm.; Akobo, 925 mm.; Shambe, 819 mm. Fangak is exceptional, possibly owing to the heavy bush and Acacia forest in that region.

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624 692 and under them a large number of headmen each representing a smaller community, often a single local lineage. The Nuer court is a judicial, executive, and administrative body, and there is, at present, only the beginning of a separation of the judiciary from the executive.[1] It is with the judicial aspect of its functions we are here concerned.

Administrative Policy and the Evolution of Nuer Courts

175 [651] Administration of the Nuer up to about 1928 was of an attenuated form, and in the least accessible areas there was no administration at all. Action was confined to the attempt to maintain public order, to prevent raids on the Dinka, and to collect taxes in the form of cattle, efforts which were evaded by the Nuer more often than not, and occasional meetings for the settlement of disputes. Writing of the Zeraf Island area in 1924, the then District Commissioner rather gloomily remarks that he rarely saw more than the distant backs of Nuer and then only fleetingly. This was not perhaps surprising, for the Nuer bitterly resented the collection of tribute, which in those days meant parting with their cattle in return for nothing, or so it must have seemed to them. I mention this because, in assessing the effects of contact with European culture and, through the opening of communications and the maintenance of security, with the peoples of other tribes and of the northern Sudan, it must be remembered that external influences are relatively recent.

The military operations against the Nuer which started in 1928 represent a dividing line in recent Nuer history and in the history of the Administration. Thereafter the Nuer, by then at least partially subdued and with a wholesome respect for the power of the Government, were approached in a more conciliatory manner. It was a period of appeasement, and that the objectives of the Government should be understood by the Nuer at all is largely owing to the efforts of the District Commissioners already mentioned; and to them is due great credit. Their contact with the people was essentially personal, and their approach to the problem the right one, besides being the only effective means of gaining their confidence.

692 We are here only concerned with the problems of Nuer law and the evolution of legal procedures. At this period nearly all legal disputes were brought to the District Commissioner personally, who gave judgement with the assistance of the chiefs and saw to it that these judgements were executed. In the early stages the extent of litigation was limited, but what statistics are available show the increasing momentum as the years proceed. At the same time the authority and effectiveness of the tribunals established by the Government

[1] Local Government among the Nuer is in its infancy, and only provisional Rural District Councils exist at the time of writing.

10:Evans-Pritchard E-5 (1931-1936) 1940
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travellers are to be trusted, to have been much change of territory during the last fifty years. This eastwards migration is a fact that has to be taken into account, with those related earlier, if we wish to know why the eastern tribes are larger, territorially and numerically, than the western tribes, for it may be assumed that the struggle of conquest and settlement, and absorption of Dinka on an unprecedented scale, had some effect on the migrating hordes.

To the north, the Nuer are in varying degrees of contact with Arabs, the peoples of the Nuba Hills, the powerful Shilluk kingdom, and certain small communities in Darfung (Burun and Koma); while to the east and south-east they are bordered by the Galla of Ethiopia, the Anuak, and the Beir. Wherever the Nuer have direct relations with these peoples, they are hostile in character.

Arab slave-raiders from the Northern Sudan intruded here and there into the more accessible portions of Nuerland in the second half of the nineteenth century, but nowhere did they gain the upper hand or, indeed, make a marked impression on the Nuer, who opposed them as strongly as they resisted later the Egyptian Government, which undertook no serious operations against them. The Nuer likewise treated British rule with open disrespect till, as a result of lengthy military operations between 1928 and 1930, their opposition was broken and they were brought under effective administration. With the exception of this last episode in their history, the Nuer may be said to have reached in their foreign relations a state of equilibrium and of mutual hostility which was expressed from time to time in fighting.

A tribe is divided into territorial segments which regard themselves as separate communities. We refer to the divisions of a tribe as primary, secondary, and tertiary tribal sections. Primary sections are segments of a tribe, secondary sections are segments of a primary section, and tertiary sections are segments of a secondary section. A tertiary section is divided into villages and villages into domestic groups. A member of Z^2 tertiary division of tribe B sees himself as a member of Z^2 community in relation to Z^1, but he regards himself as a member of Y^2 and not of Z^2 in relation to Y^1. Likewise, he regards himself as a member of Y, and not of Y^2, in relation to X. He regards himself as a member of tribe B, and not of its primary section Y, in relation to tribe A. Thus, on a structural plane, there is always contradiction in the definition of a political group, for a man is a member of it in virtue